

**REMARKS**

Reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 1-57 remain pending in the application.

Claims 1, 2, 4-6, 8, 10-12, 24, 26, 28, 30, 37, 54 and 57 are rejected under 35 U.S.C. § 102(b) as being anticipated by Fogarty. Independent claims 1 and 57 have been amended and are believed patentable over Fogarty for the reasons discussed below.

Independent claims 1 and 57 have been amended to recite that the infrared radiation is submitted substantially in one direction. This is not done by Fogarty. Fogarty emits infrared radiation in substantially 360°. Fogarty is not directed to infrared efficiency but rather is used in target practice to be perforated by projectiles and there is no attempt to improve efficiency. For at least this reason, independent claims 1 and 57 are patentable over Fogarty. The dependent claims recite additional, important limitations and are patentable for the reasons discussed above with respect to the independent claims as well as on their own merits.

Dependent claims 3, 7, 9, 13-25, 27, 29, 31-32, 34-36 and 38-56 are rejected under 35 U.S.C. § 103(a) as being unpatentable of Fogarty in view of Ellis et al. Applicants respectfully traverse this rejection.

Ellis et al. does not overcome the deficiencies discussed above with respect to Fogarty. Accordingly, these claims are patentable for the reasons discussed above with respect to Fogarty as well as on their own merits.

All objections and rejections having been addressed, it is respectfully submitted that the present application should be in condition for allowance and a Notice to that effect is earnestly solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including

extension of time fees. to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

**LOWE HAUPTMAN GILMAN & BERNER, LLP**

*Kenneth M. Berner*

Kenneth M. Berner

Registration No. 37,093

1700 Diagonal Road, Suite 300  
Alexandria, Virginia 22314  
(703) 684-1111  
(703) 518-5499 Facsimile  
Date: September 15, 2003  
KMB/jd